



U.S. Department
of Transportation
Federal Highway
Administration



EXPANDING THE USE OF ENVIRONMENTAL PROGRAMMATIC APPROACHES



Programmatic Approaches Team

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Today's Agenda

- Our focus on programmatic approaches
- Outline of the initiative
- Elements of this session
 1. Understanding the Process of Developing and Using Programmatic Approaches
 2. Barriers to Implementing PAs and Maximizing Performance
 3. Current State of Use
 4. Commitments for the Future



Our Focus on Programmatic Approaches



What is a Programmatic Approach?

- Establishes a streamlined process for handling routine environmental requirements for commonly encountered project types
- Sets procedures for consultation, review and compliance with one or more federal laws
- Allows repetitive actions to be considered on a program basis rather than project by project



Examples/Types of Programmatic Approaches

- Cultural/Historic Preservation
 - Section 4(f) programmatic evaluations
 - “No potential to affect historic properties” memos
- Natural Resource Protection
 - ESA/Wetland Programmatic agreements
- NEPA/Environmental Review
 - Interagency Memoranda of Agreement/
Understandings



Coverage of Programmatic Approaches

- Data
- Process
- Project(s)
- Programs



Benefits

Programmatic approaches result in time savings by:

- Clearly specifying roles and responsibilities
- Standardizing coordination and compliance procedures
- Allowing limited staff and resources to be more focused and effective



Benefits

Programmatic approaches result in time savings, compliance, and quality outcomes by:

- Establishing expectations for review time frames and processing options
- Facilitating the development of trust relationships
- Requiring quality control/quality assurance for compliance procedures



Outline of Initiative



Goal of Initiative

- Improve decision-making, while expediting the project delivery process
- Increase the number of environmental programmatic approaches nationally
- Stimulate dynamic and ongoing development and application of more consistent programmatic approaches



Initiative Activities

- Promote the use of existing tools
- Identifying deployment obstacles
- Develop creditable resources for State and Local partners
- Develop soft-skills for leveraging strong relationships
- Identify best practices and experiences
- Identify opportunities within our regular processes and business practices to expand programmatic approaches or improve existing ones



EDC Roles and Responsibilities

State DOTs :

- Verify the AASHTO CEE inventory
- Assess the effectiveness of existing approaches
- Identify opportunities to expand existing approaches
- Familiarize themselves with successful programmatic approaches in other states/regions
- Identify opportunities for development of new programmatic approaches
- Assess potential for development of regional approaches



EDC Roles and Responsibilities

FHWA:

- Assure consistency in the application of programmatic approaches
- Work with state partners to examine environmental program to identify opportunities
- Provide technical assistance
- Engage resource and permitting agencies representatives in discussions
- Coordination with neighboring states to highlight opportunities for multistate regional approaches



Element 1: Understanding the Process of Developing and Using Programmatic Approaches



Background

- Programmatic approaches have been utilized for decades
- AASHTO CEE compiled Programmatic Agreement Library and Toolkit in 2002/2003
- Some States have not fully tapped into the benefits of these approaches
- AASHTO/SCOE identified need to look at the best programmatic approaches and expand use



AASHTO CEE Task

- Update Programmatic Agreement Library
- Update Programmatic Agreements Toolkit
- Identify best practices



Collecting Agreements

1. CEE Collected Agreements from State DOTs
2. Compiled and catalogued documents
3. Identified three categories of PAs
 - NEPA, Cultural Resources/ Section 106, & Ecological
4. Organized three review groups of FHWA and State DOT representatives for each category
5. Developed screening criteria reflecting characteristics of effective PAs



National Programmatics Database

290 Documents Compiled

- 73 - NEPA Related
- 99 - Section 106 or Cultural Resources Related
- 118 - Ecology or Natural Resources Permitting Related



Screening Criteria from CEE Evaluation of Approaches

- Programmatic Agreement Coverage
- Performance of Programmatic Agreement
- Administrative Functions
- Clarity of Programmatic Agreement
- Implementation of Programmatic Agreement
- Transferability and Adaptability
- Transparency



CEE Screening Agreements

- Final list of PAs with high potential for effectiveness were selected
- Using Screening criteria, conducted initial review of to identify examples with high potential for effectiveness
- Collected performance information from State DOTs on initial list
- Using screening criteria and performance information, evaluated initial list



Assessing Effectiveness

- Is the PA active?
- How many projects have been processed?
- Have project delivery time frames been shortened?
- Has the PA improved environmental outcomes and or sustainability?
- Has interagency collaboration improved ?



Innovations in NEPA Programmatic Approaches

Examples of other NEPA-related programmatic agreements:

- Illinois Statewide Implementation Agreement for Establishing Timeframes for EAs and EISs
- Colorado Policy Agreement for EPA's Review of EAs
- Colorado Memorandum of Understanding Related to State Transportation Systems and Public Lands
- Oregon MOA on the Implementation of NEPA for Oregon OTIA III Statewide Bridges Program
- North Dakota Section 4(f) Programmatic Agreement



Innovations in Section 106 Programmatic Approaches

Federal Aid Highway Program

- Ohio - proven, logical streamlined 106 process
- California - shortened times for 7,000 projects
- New Mexico - includes exempted activities and S/L
- Pennsylvania - exempted 196 projects since March
- Washington - provides for website posting of results

Minor Highway Projects

- Massachusetts - includes extensive list of activities needing no further review



Innovations in Section 106 Programmatic Approaches

Tribal

- North Dakota Tribal Consultation - 8 tribes meet regularly for project review, mutual education
- Utah Coordination and Consultation with the Paiute Indian Tribe and the Cedar Band of Paiute Indians

Resource Specific

- Indiana Management & Preservation of Historic Bridges
- Alaska Highway System Roads
- Montana Historic Roads and Bridges



Innovations in ESA

Programmatic Approaches

- Single or Multi-Species
- Group of Projects (Batched)
- Types of Activities
- Tiered



Innovations in ESA Programmatic Approaches

Oregon Bridge Programmatic

- Multi-species
- Statewide
- USFWS & NMFS
- Applied to over 400 bridge replacements (Batched)
- BMPs / Performance Measures
- Conservation / Mitigation



Innovations in Ecological Programmatic Approaches

- Eco-Logical Approach
 - Ecosystem based
- SAFETEA-LU 6001 – Transportation Planning & Conservation Planning
- Planning & Environmental Linkages
- CWA Section 404 Regional General Permits
- Indiana Bat Agreement



Innovations in Ecological Programmatic Approaches

- Eco-Logical Approach Grants
- North Dakota Mitigation Banking Guidance
 - FHWA sits on Banking Review Team
 - Incorporates the 2008 Wetland Mitigation Rule
 - Ecoregion based service areas



Innovations in NEPA

Programmatic Approaches

- Programmatic Categorical Exclusion (PCE) Agreements
 - Wide variation in project types and impact thresholds
- Impact threshold examples
 - 106, T&E, 404 permit, USGC permit, ROW, displacements, etc.
- Other PCE provisions
 - Batching/grouping of similar actions
 - Record keeping
 - FHWA review



Principles of Developing a PA

- Focus on the Resources or Outcomes, NOT the Process
- A PA Requires Trust and Cooperation Among the Parties
- Management has a Critical Role
- Early Dedication of Resources and Time will Pay Off with Dividends Later



Steps in Developing a PA

- Identify the purpose and goals of the PA
- Consider and evaluate relationships among the potential partners
- Create the initial design of the PA
- Consult and negotiate
- Draft, execute, and implement the PA



Tools

- *AASHTO CEE Updated Programmatic Agreement Library & Toolkit:*
http://environment.transportation.org/center/products_programs/programmatic_agreement.aspx
- *FHWA Streamlining Website, State Practices:*
<http://environment.fhwa.dot.gov/strmlng/es3stateprac.asp>
- *TRB report on “Agency Use of and Approach to FHWA Approved Programmatic Agreements”*
[http://onlinepubs.trb.org/onlinepubs/archive/NotesDocs/25-25\(13\)_FR.pdf](http://onlinepubs.trb.org/onlinepubs/archive/NotesDocs/25-25(13)_FR.pdf)
- *State Transportation Liaison Funded Positions Study*
<http://environment.fhwa.dot.gov/strmlng/fundedPositionsReport/report.asp>



Element 2:

Barriers to Implementing Programmatic Approaches and Maximizing Performance



Potential Barriers

- Staffing
- Awareness of options
- Time
- Transaction Cost
- Work program assessment & need
- Staff competence
- Performance Data
- Business Case
- Transferability
- Poor relationships
- Poor compliance



Overcoming Barriers

- State strategies
- Regional strategies
- FHWA Headquarters strategies



Leadership Role

Are Conditions Ripe for Successful Agreements?

- Capitalize on existing solid relationships
- Cooperatively brainstorm
- Be patient, take time to conduct fair and open negotiations



Leadership Role

Develop Conditions to Ripen for Success

- Get Leadership buy-in to proceed
- Work on relationships that need attention (even if it is difficult)
- Bring items to trade to the table and be willing to reset the table
- Be open-minded and transparent
- Be persistent, friendly and fair
- Test drive or pilot procedures



Element 3: The Current State of Use



Existing Approaches

- Delaware
- District of Columbia
- Maryland
- Kentucky
- North Carolina
- Virginia
- West Virginia



Element 4: **Commitments For Future Programmatic Approaches**



Tracking National Progress

State	Category	Sub category	Title	Scale of PA	Action	Status	Date of last action
WY	Other	General Interagency Coordination	Memorandum of Understanding between the Forest Service, the FHWA and WYDOT.	State	Update/revision	Signed	6/14/2010
NE	NEPA	Categorical Exclusion	PA for Lighting and Signal Repair and Replacment Activities	State	New	Signed	6/23/2010
MD							
VA							
WV							
KY							
DC							
NC							



Solicit Technical Assistance Needs

- Consider needs in:
 - Developing new Programmatic agreements/approaches
 - Revising existing agreements
- Contact FHWA (Division, Resource Center and HQ) for help now and in the future
- Contact Initiative Team Leads directly
- AASHTO-CEE; STEP-Volpe



EDC Next Steps

1. Validate programmatic lists
2. Confirm PA work in progress for tracking table
3. Evaluate for inclusion in State Action Team
4. ID technical assistance & resources needs



Wrap-up